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APPLICATION NO.	FII	LING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,365	10/807,365 03/23/2004		Derek Metcalf	38949/295702	3952
23370	7590	03/14/2006	EXAMINER		
JOHN S. PR	•	•	NOVOSAD, JENNIFER ELEANORE		
KILPATRIC			ART UNIT	PAPER NUMBER	
1100 PEACHTREE STREET ATLANTA, GA 30309				3634	

DATE MAILED: 03/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)					
	10/807,365	METCALF, DEREK					
Office Action Summary	Examiner	Art Unit					
	Jennifer E. Novosad	3634					
The MAILING DATE of this communication app Period for Reply	ears on the cover sheet with the c	orrespondence address					
A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING DA - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period was preply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	TE OF THIS COMMUNICATION (6(a). In no event, however, may a reply be tim till apply and will expire SIX (6) MONTHS from cause the application to become ABANDONE	. ely filed the mailing date of this communication.) (35 U.S.C. § 133).					
Status							
1) Responsive to communication(s) filed on 23 M.	arch 2004.						
<i>,</i> —	action is non-final.						
,—							
closed in accordance with the practice under E							
Disposition of Claims							
4) Claim(s) 1-17 is/are pending in the application.							
4a) Of the above claim(s) is/are withdrawn from consideration.							
5) Claim(s) is/are allowed.							
6)☐ Claim(s) is/are rejected.							
7) Claim(s) is/are objected to.							
8) Claim(s) <u>1-17</u> are subject to restriction and/or e	election requirement.						
Application Papers							
9) The specification is objected to by the Examine							
10)☐ The drawing(s) filed on is/are: a)☐ acc							
Applicant may not request that any objection to the							
Replacement drawing sheet(s) including the correct							
11)☐ The oath or declaration is objected to by the Ex	aminer. Note the attached Office	Action or form PTO-152.					
Priority under 35 U.S.C. § 119							
12) Acknowledgment is made of a claim for foreign a) All b) Some * c) None of: 1. Certified copies of the priority document 2. Certified copies of the priority document 3. Copies of the certified copies of the priority document application from the International Bureau * See the attached detailed Office action for a list	s have been received. s have been received in Applicati rity documents have been receive u (PCT Rule 17.2(a)).	on No ed in this National Stage					
Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date	4) Interview Summary Paper No(s)/Mail D 5) Notice of Informal F 6) Other:						

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DETAILED ACTION

Election/Restriction

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-8, drawn to an adjustable shelving unit, classified in class 211, subclass 90.03.
- II. Claims 9-15, drawn to an adjustable shelving unit, classified in class 211, subclass 106.
- III. Claim 16, drawn to an adjustable shelving unit, classified in class 211, subclass 175.
- IV. Claim 17, drawn to an adjustable shelving unit, classified in class 211, subclass 153.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination I has separate utility such as use without "two" attachment members, as called for in claim 9. See MPEP § 806.05(d).

Inventions I and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination I has separate utility such as use without a support frame, as required in claim 16. See MPEP § 806.05(d).

Inventions I and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not

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obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination IV has separate utility such as use without an attachment member, as called for in claim 1. See MPEP § 806.05(d).

Inventions II and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination III has separate utility such as use without a pin, as in claim 9. See MPEP § 806.05(d).

Inventions II and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination IV has separate utility such as use without a support frame, as in claim 9. See MPEP § 806.05(d).

Inventions III and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination IV has separate utility such as use without a support frame, as called in claim 16. See MPEP § 806.05(d).

Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

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This application contains claims directed to the following patentably distinct species:

- (a) Figures 1-10;
- (b) Figures 11-13;
- (c) Figures 14-16 and 19; and
- (d) Figures 17 and 18.

The species are independent or distinct because the figures show different patentably distinct features.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. *Currently*, no claims are deemed to be generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

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Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer E. Novosad whose telephone number is 571-272-6832. The examiner can normally be reached on Monday-Thursday, 5:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard E. Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center

Pennarer E. Novosad Primary Examiner Art Unit 3634

March 9, 2006